

TREMPEALEAU COUNTY HUMAN HEALTH HAZARD ORDINANCE

The Trempealeau County Board of Supervisors does hereby ordain as follows:

The Trempealeau County Human Health Hazard Ordinance is hereby repealed and recreated as follows:

Section 1.01 Definitions

- (1) *County* means Trempealeau County, Wisconsin.
- (2) *Groundwater* means all water found beneath the surface of Trempealeau County located in sand, gravel, lime rock, or sandstone geological formations or any combination of these formations.
- (3) *Human Health Hazard* means a substance, activity or condition that is known to have the potential to cause acute or chronic illness, injury, or death if exposure to the substance, activity or condition is not abated.
- (4) *Health Officer* means the public health professional responsible for communicable disease control and other duties defined in Wisconsin State Statutes 251.06 or his/her designee.
- (5) *Imminent Health Hazard* means a condition or activity which could cause serious or life-threatening injury or death at any time, determined by the Health Officer, which shall be abated or corrected immediately, or at least within a period of time as determined by the Health Officer to prevent possible severe damage to human health and/or the environment.
- (6) *Operator* means any person who has charge, care, or control of a structure or premises.
- (7) *Ordinance* means the Trempealeau County Human Health Hazard Ordinance.
- (8) *Person* means any individual, firm, corporation, society, institution, public body or any other entity.
- (9) *Pollution* means contaminating or rendering unclean or impure the air, land or waters of the County, or making the same injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.
- (10) *Solid Waste* means garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operational and from domestic use and public service activities, but does not include solids or dissolved material in waste water effluent or other common water pollutants.

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- (11) *Structure or Building* means a building or structure having walls and a roof, whether or not it is erected or set upon an individual foundation or slab constructed base which is designed or used for the housing, shelter, enclosure, or support of persons, animals or property of any kind. This definition includes mobile homes.
- (12) *Toxic or Hazardous Materials* means any chemical and/or biological material that is or has the potential to create a public health hazard.

Section 1.02 **Purpose and Intent**

General Provisions – The purpose and intent of this Ordinance is to protect the public health, safety, and general welfare and to maintain and protect the environment for the people and communities of Trempealeau County and to:

- (a) Prevent communicable diseases.
- (b) To prevent the continuance of human health hazards.
- (c) Assure that local, state and federal air quality standards are complied with.
- (d) Assure that insects and rodents do not create human or other health hazards.
- (e) Assure that surface and groundwater meet local, state, and federal standards and regulations.
- (f) Assure that solid waste is handled, stored and disposed of according to local, state, and federal standards and regulations.
- (g) Assure that citizens are protected from hazards, unhealthy, or unsafe substances.
- (h) Provide for the administration and enforcement of this ordinance and to provide penalties for its violation.

Section 1.03 **Jurisdiction**

The jurisdiction of this ordinance shall include all air, land, and water (both surface and ground) within Trempealeau County pursuant to Chapter 251.08 Wisconsin Statutes.

Section 1.04 **Compliance**

- (1) Written Orders – Compliance with this Ordinance shall include compliance with written orders issued under this ordinance or applicable State health laws by the Trempealeau County Health Officer to abate and/or correct a human health hazard or bring any other hazardous situation or condition into compliance.

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- (2) Noncompliance with this Ordinance and/or written orders from the Health Officer shall be cause for enforcement action under Section 1.10 of this Ordinance.

Section 1.05 **Severability and Repeal**

- (1) Severability – Each section, paragraph, sentence, clause, word and provision of this ordinance is severable, and if any provisions shall be held unconstitutional or invalid for any reason such decisions shall not affect the remainder of the ordinance nor any part thereof other than that affected by such decision.
- (2) Repeal – All other Trempealeau County ordinances or parts of those ordinances inconsistent or conflicting with this ordinance to the extent of the inconsistency only, are hereby repealed.

Section 1.06 **Administration**

- (1) General Provisions – This Ordinance shall be interpreted, administered, and enforced by the Trempealeau County Health Officer or his/her designee.
- (2) Powers – The Health Officer shall have all the powers necessary to enforce the provisions of this code without limitation by reasoning of enumeration including the following:
 - (a) To enter any structure or premise at a reasonable time for the purpose of performing duties under this ordinance and to secure a court order to accomplish this purpose if necessary.
 - (b) To order abatement and/or correction of any human health hazard not in compliance with this ordinance or State codes.
 - (c) To delegate the responsibilities of administration and enforcement of this ordinance to a registered environmental health sanitarian or another person qualified in the field of public health.
 - (d) To initiate any other action authorized under the law or this ordinance to insure compliance with the purpose and intent of this ordinance and the requirements of this ordinance.

Section 1.07 **Human Health Hazard**

- (1) Human Health Hazard prohibited – No person shall erect, construct, cause, continue, maintain, or permit any human health hazard within the County. Any person who shall cause, create or maintain a human health hazard or who shall in any way aid or contribute to causing, creating or maintenance thereof shall be in violation of this ordinance, and shall be liable for all costs and expenses attendant upon the removal and correction of such hazard and to the penalty provided in Section 1.10 of this ordinance.

- (2) Responsibility of Property Owner – It shall be the responsibility of the property owner to maintain such owner's property in a hazard free manner and also to be responsible for the abatement and/or correction of any human health hazard that has been determined to exist on their property.
- (3) Human Health Hazard Enumerated – Specifically, but not limited by enumeration, the following are human health hazards if determined to meet the Human Health Hazard definition (Section 1.01 of this ordinance).
 - (a) Unburied Carcasses – Carcasses of animals, birds, or fowl not intended for human consumption or food which are not buried or otherwise disposed of in a sanitary manner within the time period specified by the Health Officer or as required by Chapter 95.50 Wisconsin Statutes.
 - (b) Manure – Accumulation of the bodily waste from all domestic animals and fowl that are handled, stored, or disposed of in a manner that creates a health hazard.
 - (c) Air Pollution – The presence in the air of one or more contaminants in such quantities and of such duration as is or tends to be injurious to public health, harmful for commercial or recreational use or deleterious to fish, bird, animal or plant life.
 - (d) Noxious Odors – Any negligent use of property, substances or things within the County emitting or causing any foul, offensive, noisome, noxious, or disagreeable odors, or stench extremely repulsive to the physical senses of ordinary persons or as a whole. This provision shall not apply to animal waste stored and spread in the normal course of farming operations or industrial plants or facilities.
 - (e) Refuse – Accumulation of refuse that renders any property unsanitary, unhealthy, or unfit for human habitation, occupation, or use.
 - (f) Solid Waste – Any solid waste which is stored or disposed of in a manner which may pose a human health hazard.
 - (g) Food or Breeding Places for Vermin, Insects, etc. – Accumulation of decayed animal or vegetable matter, trash, rubbish, garbage, rotting lumber, bedding, packing material, scrap metal, animal and human fecal matter, or any substance in which flies, mosquitoes, disease carrying insects, rats or other vermin can breed, live, nest or seek shelter.
 - (h) Toxic or Hazardous Material – Any chemical and/or biological material that is stored, used, or disposed of in such quantity or manner that it is, or has, the potential to create a public health hazard.

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- (i) Waste Water – The presence of waste water or sewage effluent from buildings on the ground surface, backing up into the building and/or running into a surface water body caused by a damaged malfunctioning, improperly constructed, or inadequately maintained private sewage system, or private sewage lateral. Also, any waste water or sewage effluent that is not handled and disposed of in compliance with all applicable County and State codes.
- (j) Surface Water Pollution – The pollution of any stream, lake, or other body of surface water within the County that creates noncompliance with Chapter NR 102 and NR 103 of the Wisconsin Administrative Code.
- (k) Groundwater Pollution – Addition of any chemical and/or biological substance that would cause groundwater to be unpalatable or unfit for human consumption. These substances include but are not limited to, the chemical and/or biological substances listed in Chapter NR 140 of the Wisconsin Administrative Code.
- (l) Holes or Openings – Any hole or opening caused by an improperly abandoned cistern, septic tank, dug well, or any other improperly abandoned or covered up excavation.
- (m) Animal at Large – Dogs, cats, or other animals having the potential of spreading disease or causing injury to people, which are running at large off property occupied by their owners or keepers.
- (n) Nonfunctional or Unsanitary Public Building Fixtures – Nonfunctioning water supply systems, toilets, urinals, lavatories or other fixtures considered necessary to ensure a sanitary condition in a public building, including any public restroom which is soiled by human or other waste, or maintained in a filthy condition or lacking soap and single-use hand towels.
- (o) Unhealthy or Unsanitary Condition – Any condition or situation which renders a structure or any part thereof unsanitary, unhealthy, and unfit for human habitation, occupancy, or use, or renders any property unsanitary or unhealthy.
- (p) Unsafe Structure – An unsafe structure is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damage, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

- (q) Other – Any other situation determined to meet the definition of a Human Health Hazard as per Subsection 1.01 (3) of this ordinance.
- (4) Investigation of Possible Human Health Hazard – The Health Officer or his/her designee shall investigate all potential human health hazards and shall determine whether or not a human health hazard exists.
- (5) Abatement, Correction, and Enforcement – Abatement, correction and enforcement of a human health hazard will be according to the provisions in Section 1.10 of this ordinance.

Section 1.08 Designation of Rental Housing as a Human Health Hazard

- (1) As determined by the Health Officer, the following are human health hazards if determined to meet the Human Health Hazard definition [section 1.01 (3) of this ordinance]. If it is determined that a dwelling or dwelling unit shall be condemned as unfit for human habitation, it shall be placarded by the Health Officer:
 - (a) A dwelling which is so damaged, decayed, dilapidated, unsanitary, unsafe, or vermin infested that it creates a serious hazard to the health or safety of the occupants or to the public.
 - (b) A dwelling that lacks a potable water supply or a properly functioning public or private sanitary sewer system.
 - (c) A dwelling which lacks a functioning heating system able to maintain a temperature of at least 68°F or which is not functioning properly as to protect the health or safety of the occupants or of the public.
 - (d) Weatherization – A dwelling that is not properly weatherized, including but not limited to, inadequate insulation, lack of storm windows or screens, a roof in poor condition, etc.
 - (e) Smoke detectors – A minimum of one smoke detector must be installed on each floor of a dwelling; and where applicable, as close to the sleeping rooms as possible.
 - (f) Egress/Exit Capacity – The capacity of the exits serving a floor shall be sufficient for the occupant load thereof as determined by the building code.
 - (g) Roofs and Drainage – The roof and flashing shall be sound, tight and not have defects that admit rain. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions.

- (h) Foundation Walls – All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents.
 - (i) Interior Surfaces – All interior surfaces, including windows and doors shall be maintained in good, clean and sanitary condition. Peeling paint, cracked or loose plaster, sheetrock, gypsum board, or decayed wood must be corrected. All interior stairs and railings shall be maintained and in good repair.
 - (j) Protective Treatments – All exterior surfaces, including but not limited to, doors, door and window frames, porches and trim, shall be maintained in good condition. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped lead paint shall be eliminated and/or surfaces repainted. All siding and masonry joints as well as those between the building envelope and the perimeter of windows, doors, and skylights shall be maintained weather resistant and water tight.
 - (k) A dwelling which does not meet applicable WI Department of Commerce – Safety & Building, Plumbing, and Electrical Codes.
 - (l) A dwelling, because of its general condition or location, is unsanitary or otherwise dangerous to the health or safety of the occupants or of the public.
 - (m) Infestation – All structures shall be kept from insect and rodent infestation. All rental structures in which insects or rodents are found shall be promptly exterminated by a licensed pest control professional.
 - (n) A dwelling, because of its condition, which has been implicated as the source of a confirmed case of lead poisoning or asbestosis.
 - (o) Conditions affecting habitability as listed in Chapter ATCP 134.
- (2) No person shall continue to occupy, rent, or lease quarters for human habitation, which are declared unfit for human habitation by the Health Officer.
 - (3) Any dwelling or dwelling unit condemned as unfit for human habitation, and so designated and placarded by the Health Officer, shall be vacated within a reasonable time, as specified by the Health Officer.
 - (4) No dwelling or dwelling unit which has been condemned and placarded as unfit for human habitation shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Health Officer. The Health Officer shall remove such placard whenever the defect or

defects upon which the condemnation and placarding were based have been eliminated.

- (5) No person shall deface or remove the placard from any dwelling or dwelling unit, which has been condemned as unfit for human habitation.
- (6) Whenever the Health Officer determines that a violation exists or has reasonable grounds to believe that there has been a violation of any provision of this section, or any rule or regulation adopted pursuant thereto, he/she shall give or cause to be given, notice of such violation to the person or persons responsible therefore, such notice shall be in writing including a description of the real estate involved, a statement of violations and corrective actions required, and allowing a reasonable time for the performance of any act required. Such notice shall be served upon the owner, operator, or occupant as the case may require, and may be served by First Class Mail, in person, or in the manner provided by Chapter 801, Wisconsin Statutes for service of summons.

Section 1.09 **Public Swimming Places**

- (1) Closing of Public Swimming Places – If a public swimming place is determined by the Health Officer to be a public health hazard, the Health Officer may order it closed and post a sign with the following wording: “Closed for Swimming by Order of the Trempealeau County Health Department”.
- (2) New Public Swimming Places/Beaches – At a proposed beach a sanitary survey shall be conducted by the Trempealeau County Health Department or a person acceptable to the Trempealeau County Health Department before construction or development of a beach is started.
- (3) Existing Beaches – At the discretion of the Trempealeau County Health Department a sanitary survey by be conducted at any time at an existing beach.
- (4) Beach Water Sampling
 - (a) Frequency – the beach operator shall collect at least two sets of bacteriological samples from representative locations during the peak swimming season. The samples shall be submitted to a laboratory certified by the Wisconsin Department of Agriculture, Trade, & Consumer Protection to perform water microbiological analysis. Copies of sampling results shall be submitted to the Trempealeau County Health Department within 5 days of sampling.
 - (b) Sampling Procedure – Samples shall be collected within one foot of the surface in water having a depth range of 3 to 6 feet.

- (5) Closing or Advisory Criteria for a Beach – When one or more of the following are not complied with, the beach or public swimming area shall be posted with an Advisory or closed to the public, based on a determination by the Health Officer, until compliance is achieved.
- (a) Microbiological Quality – Advisory or closure signs should be posted when the *E. Coli* count in the beach water, as determined by microbiological sampling, exceeds 235 cfu/100mL. A beach or public swimming area shall be closed if the fecal coliform density of any sample exceeds 1,000 per 100 mL. If the beach is suspected to be the cause of communicable disease it shall be closed until the source of the disease is identified and removed and/or bacteriological quality sampling indicates the water is safe for swimming. Beach advisory/closure signs can be removed when the sample results of two consecutive days of sampling are below 235 cfu/100mL.
 - (b) Unsafe Conditions – When the safety of a beach is in doubt, and acceptable levels have not yet been established following a flood, chemical or biological spill, or unusually serious storm event.
 - (c) Chemical Quality – The water shall be free of chemical substances capable of creating toxic reactions or irritations to the skin or membranes of swimmers. All complaints shall be referred to the Department of Natural Resources for investigation.
 - (d) Physical Quality – As determined by visual examination the water shall be free of excessive debris, growths, oils, greases, weeds, algae or other substances capable of creating a health or safety hazard to swimmers.
 - (e) Signs – The land boundary of a beach shall be designated by the posting of signs. If a beach is not for public use and public swimming is occurring there shall be a sign placed near the adjoining property, which states “Private Beach NO Swimming, by the Public.”
 - (f) Land area – At least 35 square feet of open land area per patron shall be provided.
 - (g) Bottom slope – For depths up to 4 feet of water, the bottom slope of the beach shall be uniform and not drop more than one inch for every 12 inches, unless roped off and warning signs are provided. There shall be no underwater obstructions, drop-offs or radical changes between the depths of 4 feet and 7 feet unless roped off and warning signs provided.
 - (h) Markers – The perimeter of the beach water area shall be clearly designated by means of lines attached to swimming area buoys. The shallow part of the swimming area shall be separated from the remainder of the area by means of lines located at a clearly marked depth of between 3 and 4 feet. Any area specifically designated for

diving purposes shall also be separated by lines located at a distance of no less than 12 feet from a diving platform and 12 feet beyond the end of a diving board. All lines shall be buoyed and securely anchored. Floats attached to the lines shall be located no more than 25 feet apart and at all points where lines are joined. Clearly visible water depth marking shall be provided to indicate the maximum depth of the water beneath all diving boards, platforms, towers or rafts.

Note: The placement of waterway regulatory markers is subject to approval of the Department of Natural Resources as stated in s. NR5.09.

- (i) Diving facilities – Floating and fixed diving platforms shall be constructed with a visible 12-inch air space under the platform at the maximum feasible patron load. There shall be as little underwater construction as is consistent with adequate support and all braces and struts shall be designed to prevent entrapment of patrons.
 - (j) Liquid waste disposal – Wastewater from a bathhouse or a related facility shall be discharged to a municipal sewerage system if one is available. If one is not available, discharge shall be to a system approved by the Trempealeau County Zoning Department and/or the Wisconsin Department of Commerce.
 - (k) Toilet facilities – Toilet facilities shall be provided within 500 feet of all public swimming beaches. Portable toilets may be used if approved by Trempealeau County Health Department where less than 200 persons use the beach, if portable toilets are operated in a sanitary manner. The Health Department may order an alternate sewage system be installed if portable toilets are not maintained in a sanitary manner.
- (6) Safety
- (a) Lifeguards – If a lifeguard is not provided a sign shall be provided with 4 inch or bigger letters and be visible to the public using the beach stating: “No Lifeguard. Swim at Your Own Risk”.
 - (b) Vehicles – No motorized vehicles except emergency and maintenance vehicles shall be permitted on the beach.
 - (c) Non-Swimming Activity – No boating, water skiing, surfboarding or sailboarding shall be permitted in the designated swimming area.

Section 1.10 **Enforcement**

- (1) Written Order – When a violation of this ordinance is encountered the Health Officer shall issue the violator a written order, served personally, or sent by First Class Mail. This order shall specify the following:
 - (a) The nature of the violation and the steps needed to abate and/or correct it.

- (b) The time period in which the violations must be corrected and/or abated (usually within 5 to 30 days depending on the nature of the violation or whether a compliance time extension was granted to the violator by the Health Officer).
 - (c) The penalty or penalties the violator would be subject to if the apparent violation is not abated and/or corrected within the given time period, see subsection (3) and (4) below.
- (2) Exceptions to Written Orders – In extreme cases where a violation poses an immediate health hazard as determined by the Health Officer or his/her designee, or in the case of repeating occurrences of the same violation by the same person, the action(s) specified in the subsection (3) below can be initiated immediately.
- (3) Noncompliance with Order – If a person does not comply with a written order from the Health Officer, the person may be subject to one or more of the following actions and/or penalties.
 - (a) Issuance of a citation
 - (b) Commencement of legal action seeking a court imposed forfeiture and/or imprisonment [see subsection (5) below].
 - (c) Commencement of legal action seeking an injunction to abate the violation and/or correct the damage created by the violation.
 - (d) Any other action authorized by this ordinance or by other applicable laws as deemed necessary by the Health Officer.
 - (e) The initiation of one action or penalty under this section does not exempt the apparent violator from any additional actions and/or penalties *listed* in this section,
- (4) Abatement and Penalties
 - (a) Abatement or Removal of Health Hazards – If the human health hazard is not abated or removed by the date specified in Section 1.10(1)(b) above, the Health Officer or designee may enter upon the property and abate or remove the human health hazard. The cost of the abatement or removal may be recovered from the person permitting the violation, or may be paid by the County Treasurer, who shall enter the amount chargeable to the property in the next tax roll in a column headed “For Abatement of a Human Health Hazard” as a special tax on the lands upon which the human health hazard was abated and the tax shall be collected as are other taxes.

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- (b) Penalties – Anyone violating a provision of this ordinance or maintaining a human health hazard shall be subject to a forfeiture of not less than \$30.00 nor more than \$500 in addition to court costs. A person who fails to pay a forfeiture and costs imposed by the court shall serve one day in the county jail not to exceed 90 days for each \$40.00 unpaid. In the case of court imposed forfeitures, a separate offense shall be deemed committed each day upon which a violation occurs or continues to occur.
- (5) Initiation of Legal Action – Legal action shall be initiated against a violator, as requested by the Health Officer in accordance with the following.
 - (a) The Corporation Counsel shall be responsible for all cases where an injunction to correct and/or abate a violation is being sought.
 - (b) The County District Attorney shall be responsible for all cases where a court-imposed forfeiture or other penalty is being sought.

This ordinance shall take effect upon passage and publication.

Dated this 20th day of October, 2003